

attached is a terminal disclaimer under 37 CFR 1.130 (b) and 1.321 which addresses the double patenting rejection. The Examiner is advised that both U.S. Patent No. 6,244,747 (Caudle) and the present application are currently owned by Cryovac, Inc.

Please charge the disclaimer fee of \$110.00, and any additional fees which may be required, and credit any overpayment to Deposit Account No. 07-1765.

35 U.S.C. §102

In paragraph 4 of the Office Action, claims 50 to 53 were rejected under 35 U.S.C. §102 (b) as being anticipated by Schwartzkopf.

In paragraph 5 of the Office Action, claims 50 to 55 were rejected under 35 U.S.C. §102 (b) as being anticipated by Schwartzkopf.

In paragraph 6 of the Office Action, claim 54 was rejected under 35 U.S.C. §102 (b) as being anticipated by Hirschhorn.

In paragraph 7 of the Office Action, claims 50 to 55 were rejected under 35 U.S.C. §102 (b) as being anticipated by Bell.

Applicant respectively traverses these rejections to the extent that they may be applied to the claims remaining in the application.

Schwartzkopf shows a *double* bag made up of two tapered bags which complement to form a rhombus or rectangle (column 1, lines 46 to 53). Even where the lateral edges are curved, as in Figures 7 and 8 of the reference, each *individual* bag of the double bag arrangement never has a concave surface and a convex surface, wherein the concave surface of the first lateral edge is substantially opposite the convex surface of the second lateral edge, and the convex surface of the first lateral edge is substantially opposite the concave surface of the second lateral edge. Instead, as shown in Figures 7 and 8, the individual pouch has a concave opposite concave format, and a convex opposite convex format. The Office Action states that:

the convex and concave surfaces of the lateral edge seam 34 or 35 are "substantially opposite" the convex and concave surfaces of the lateral edge seam 33 in each single pouch of the Schwartzkopf pair of pouches.

Applicant agrees in part and disagrees in part with this statement. Applicant agrees to the characterization as the "Schwartzkopf pair of pouches". These are

indeed pairs of pouches, not individual pouches. Each pouch of the pair has its own dimensions, and its own opening.

Within each single pouch (see e.g. Figure 7) a concave segment of edge 34 (the lower part of the pouch) is opposite a convex part of edge 33. Thus, applicant does not agree that the convex and concave surfaces of the lateral edge seam 34 or 35 are "substantially opposite" the convex and concave surfaces of the lateral edge seam 33 in each *single* pouch of a pair of pouches.

Also, the individual pouch is always tapered. This means that the distance between the lateral edges, at any elevation of the pouch, will change. Thus, making an individual pouch according to Schwartzkopf would not achieve a central object of the invention: the manufacture of pouches without generating scrap between subsequent pouches in a VFFS arrangement. This is why Schwartzkopf is forced to manufacture two connected pouches at a time.

Claims 54 and 55 have been canceled, making the rejection based on Hirschhorn moot.

Bell discloses various configurations of a bag having "first and second edges 36, 38" (column 4, line 44, Figure 2); "opposite side edges 114, 116" (column 7, line 48, Figure 3); or "side edges 164, 166" (column 9, lines 9 and 10, Figure 4). These are the lateral edges of the pouch. The element 204 referred to in the Office Action is part of each of the seals 192 and 194. To be sure, these seals are arranged such that they have an inner surface with convex and concave shapes; however, these seals are distinct from the lateral edges of the bag. The edges are in fact the outer edge of the seals. An edge itself has no lateral dimension. It is the "line where an object or area begins or ends: Border" (Webster's New Collegiate Dictionary, 1975, page 361, definition 2a. Claim 50 recites edges each comprising a concave surface and a convex surface. Since an edge has no lateral dimension, and in the light of the specification and drawings of the present application, this clearly means that each lateral edge will have a shape, at the respective sides of the pouch, defining a concave or convex surface as recited. The inner edge of the seals of Bell are not lateral edges of the pouch.

[It should also be noted that even if, for the sake of argument, the inner surfaces of the seals of Bell were treated as the lateral edges of the bag, the convex and concave surfaces are in any event not substantially opposite one another. For convenience, and

as an example of this, attention is directed to the horizontal line 39 in the lower part of Figure 2. It can be seen that the portion of the inner edge 60 of seal 40 that intersects horizontal line 39 is convex (space 59) with respect to the left outer edge 36 of the bag. At the other end of line 39, the portion of the inner edge 60 of seal 42 that intersects horizontal line 39 is convex with respect to the right outer edge 38 of the bag. Thus, convex is opposite convex. This is true for Figures 3 and 4 as well. Bell therefore does not show in any event a pouch ***wherein the concave surface of the first lateral edge is substantially opposite the convex surface of the second lateral edge*** and the convex surface of the first lateral edge is substantially opposite the concave surface of the second lateral edge (cf. claim 50), even assuming that the inner surfaces of the seals of Bell are the lateral edges of the bag].

The Office Action also states that:

Bell further shows the distance between the first and second lateral edges 164, 166 at portions 192, 194 as substantially the same for all elevations of the pouch.

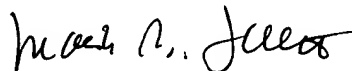
It is assumed that this statement is directed at claim 54. Claims 54 and 55 have now been canceled, rendering this ground of rejection moot with respect to claims 54 and 55.

Applicant solicits allowance of claims 50 to 53.

Please charge the any additional fees which may be required to Deposit Account No. 07-1765.

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Date